

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TYLER SOLOMON,)	
)	
Plaintiff,)	Case No. 1:23-cv-98-SPB-RAL
)	
v.)	
)	
SCI FOREST SUPERINTENDENT)	
IRWIN, <i>et al.</i>,)	
)	
Defendants.)	

MEMORANDUM ORDER

This *pro se* civil action was opened on March 30, 2023 and referred to Chief United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Civil Rule 72(b). ECF No. 1. Plaintiff Tyler Solomon is an inmate currently housed at the State Correctional Institution at Forest. His Amended Complaint, filed on December 29, 2023, is the operative pleading in this case. ECF No. 14. Therein, Plaintiff names as Defendants Superintendent Irwin and the SCI-Forest Medical Department, claiming that they violated his rights under the Eighth and Fourteenth Amendments in connection with Plaintiff's contraction of tuberculosis while confined at SCI-Forest.

On May 28, 2024, Chief Magistrate Judge Lanzillo issued a Report and Recommendation ("R&R") in which he concluded that Plaintiff's claims should be dismissed pursuant to the provisions of 28 U.S.C. §1915(e). ECF No. 16. Judge Lanzillo reasoned that the SCI Forest Medical Department was not a "person" subject to liability under 42 U.S.C. §1983 and, as to Defendant Irwin, Plaintiff had failed to plead either a plausible Eighth Amendment violation or personal involvement on the part of Defendant Irwin. Based on the many defects in Plaintiff's

putative §1983 claim, including Plaintiff's apparent inability to plead deliberate indifference to a serious medical need, Judge Lanzillo recommended that Plaintiff's federal §1983 claim be dismissed with prejudice but that Plaintiff be given leave to other claims in state court against the appropriate prison officials.

Objections to the Report and Recommendation were due to be filed no later than July 31, 2024. To date, no objections have been received.

After *de novo* review of the operative pleading and documents in the case, along with the Chief Magistrate Judge's Report and Recommendation, the following order is entered:

AND NOW, this 6th day of August, 2024, IT IS ORDERED that the Amended Complaint in this case, ECF No. [14], shall be, and hereby is, DISMISSED as legally frivolous pursuant to 28 U.S.C. §1915(e) insofar as it purports to assert claims against Superintendent Irwin and/or the SCI-Forest Medical Department predicated on the alleged violation of Plaintiff's Eighth Amendment and/or Fourteenth Amendment rights.

IT IS FURTHER ORDERED that the dismissal of Plaintiff's complaint is without prejudice and with leave for Plaintiff to assert appropriate claims in Pennsylvania state court against the relevant prison and/or medical personnel.

IT IS FURTHER ORDERED that the Report and Recommendation of Chief Magistrate Judge Lanzillo, issued on May 28, 2024, ECF No. [16], is adopted as the opinion of this Court.

The Clerk is directed to mark this case closed.

A handwritten signature in black ink, reading "Susan Paradise Baxter". The signature is fluid and cursive, with the last name "Baxter" being particularly prominent and stylized.

SUSAN PARADISE BAXTER
United States District Judge